



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2022-0432; FRL-9851-01-R7]

Air Plan Partial Approval and Partial Disapproval; Missouri; Construction Permits Required

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing partial approval and partial disapproval of revisions to the Missouri State Implementation Plan (SIP) received on March 20, 2019 and June 10, 2021. The SIP revisions in the 2019 and 2021 submittals incorporate updates to construction permit requirement regulations for stationary and portable air sources in Missouri that help ensure ambient air quality standards are met. The changes include numerous organizational changes, administrative and typographical edits to improve clarity of the construction permit process. The revisions include added procedures for the Missouri Department of Natural Resources (MoDNR) to issue general permits. For portable equipment installations, the potential to emit major source threshold of particulate matter was changed to match federal requirements. The changes proposed for approval meet the requirements of the Clean Air Act.

EPA is proposing to disapprove section (1)(B) regarding voluntary permits. EPA is proposing disapproval because the

language of the provision is too vague and does not provide sufficient clarity for implementation.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2022-0432 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Keith Johnson, Environmental Protection Agency, Region 7 Office, Air Permitting and Standards Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7737; email address: johnson.keith@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to the EPA.

Table of Contents

- I. Written Comments
- II. What is Being Addressed in this Document?
- III. What is EPA's Analysis of the Rule Revisions?
- IV. Have the Requirements for Approval of a SIP Revision Been Met?
- V. What Action is the EPA Taking?
- VI. Incorporation by Reference
- VII. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2022-0432, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. What is Being Addressed in this Document?

The EPA is proposing to partially approve and partially disapprove a submission from Missouri that revises 10 CSR 10-6.060 Construction Permits Required. The revisions were received by EPA on March 20, 2019 and June 10, 2021. The EPA's analysis of the revisions can be found in Section III and in more detail in the technical support document (TSD) included in this docket.

III. What is EPA's Analysis of the Rule Revisions?

In the 2019 SIP submission, MoDNR stated that the revisions to this rule were extensive in order to clarify requirements and procedures for improving readability and regulatory certainty. These proposed changes remove outdated references to incorporation by reference information and added appropriate incorporation by reference information to this rule. The proposed changes clarify the definition of "portable equipment installation" and added procedures for issuing general permits in addition to other minor typographical corrections.

Also in Missouri's 2019 submission, the State requested to add a provision for voluntary permits. The EPA is proposing to disapprove section (1)(B) of 10 CSR 10-6.060 regarding voluntary permits. EPA proposes to find the language of section (1)(B) to be too vague for the conditions in which these permits would be issued based on the requirements of 40 CFR 51.160(a), CAA section 110(a)(2)(A), and the John S. Seitz EPA Guidance Memo of September 23, 1987, titled "Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency." For a SIP revision to be approved, EPA evaluates the rule revisions to ensure that any new provisions are permanent, quantifiable, and enforceable. EPA is proposing disapproval because there is no information in the rule on the conditions, requirements, and parameters for applying for, issuing, or implementing voluntary permits. Based on the limited language in the rule, it is unclear how MoDNR intends to implement the proposed provision. The rule text and EPA's full analysis of the requested revisions

is included in the TSD.

Missouri's 2021 SIP submission amendments consist primarily of administrative text edits and clarifications. A clarification to the definition of *Portable equipment* was added in Section 2 to explicitly state that "any other air pollutant" includes PM₁₀ and PM_{2.5}. As discussed in the TSD, EPA proposes to find that this rule revision would not interfere with maintenance of the PM_{2.5} or PM₁₀ NAAQS. The submission also clarifies referenced materials and ensures consistency with the federal requirements.

Based on EPA's analysis of the requested revisions to 10 CSR 10-6.060 as summarized here and more fully described in the TSD, EPA proposes to approve all requested revisions, other than section (1)(B) regarding voluntary permits, because they meet the requirements of the Clean Air Act, do not negatively impact the stringency of the SIP, or have an adverse impact to air quality.

IV. Have the Requirements for Approval of a SIP Revision Been Met?

With respect to the portions of the submittal which EPA is approving, the State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from August 1, 2018 to October 4, 2018 and received 56 comments. 32 comments were made by EPA, 21 comments from State of Missouri Air Program Staff, and 4 from the public.

The State of Missouri revised the rule and responded to comments prior to submitting to the EPA. In addition, as explained above (and in more detail in the technical support document which is included in the docket for this action), the revisions proposed for approval meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

As explained in Section III and further in the TSD, EPA is proposing to disapprove section (1)(B) of 10 CSR 10-6.060 regarding voluntary permits.

V. What Action is the EPA Taking?

We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments. The State of Missouri previously conducted a public notice on the rule changes and responded to all comments. We are publishing the proposed rule in the *Federal Register* to partially approve and partially disapprove the SIP submission. Any parties interested in commenting must do so by the date listed in the **DATES** section of the document. For further information about commenting on this proposed rule, see the **ADDRESSES** section of the document. The EPA is soliciting comment on the substantive and administrative revisions detailed in this proposal and the TSD. The EPA is not soliciting comment on existing rule text that has been previously approved by the EPA into the SIP. If EPA receives adverse comment, we will address all public comments in the subsequent final rule based on the proposed rule.

VI. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Missouri Regulations of 10 CSR 10-6.060 Construction Permits Required as described in Section II of this preamble and set forth below in the proposed amendments to 40 CFR part 52. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders

12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: _____

May 27, 2022.

Meghan A. McCollister,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA-Missouri

2. In §52.1320, the table in paragraph (c) is amended by revising the entry "10-6.060" to read as follows:

§52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-Approved Missouri Regulations

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10-6.060	Construction Permits Required	5/30/2020	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	Provisions of the 2010 PM2.5 PSD—Increments, SILs and SMCs rule relating to SILs and SMCs that were affected by the January 22, 2013 U.S. Court of Appeals decision are not SIP approved. Provisions of the 2002 NSR reform rule relating to the Clean Unit Exemption, Pollution Control Projects, and exemption from recordkeeping provisions for certain sources

Missouri citation	Title	State effective date	EPA approval date	Explanation
				<p>using the actual-to-projected-actual emissions projections test are not SIP approved.</p> <p>"Livestock and livestock handling systems from which the only potential contaminant is odorous gas."</p> <p>Section 9, pertaining to hazardous air pollutants, is not SIP approved.</p> <p>EPA previously approved the 3/30/2016 state effective date version of 10 CSR 10-6.060, with the above exceptions, in a <i>Federal Register</i> document published October 11, 2016.</p> <p>Section (1)(B) of 10 CSR 10-6.060 covering the voluntary permit provision is not SIP approved.</p>
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